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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH, CENTRAL DIVISION	
WEBER LUKE ALLIANCE, LLC,  Plaintiff,  v.  STUDIO 1C INC dba EO USAGE GUIDE dba EO TOOLS; and DOES 1-20.  Defendant.	COMPLAINT    Civil No.  Judge

Plaintiff Weber Luke Alliance, LLC, by and through counsel, complains and alleges against Defendant Studio 1C, LLC as follows.

PARTIES

1. Plaintiff Weber Luke Alliance, LLC (hereinafter "WLA") is a Utah limited liability company duly authorized to transact business in the State of Utah and has its principal place of business in the State of Utah.

2. Defendant Studio 1C, LLC is a Utah limited liability company duly authorized to transact business in the State of Utah and has its principal place of

business in the State of Utah and is doing business as EO Usage Guide a Utah registered DBA and as EO Tools, a Utah registered DBA (hereinafter “Studio 1C”).

3. Does 1-20 are additional individuals and/or entities who have committed wrongs alleged herein, but whose identities are currently unknown to WLA. WLA will amend this complaint to properly identify additional parties as they become known.

4. This action is brought under the Trademark Laws of the United States, 15 U.S.C. §§ 1111, *et seq.*, and the Copyright Laws of the United States, 17 U.S.C. §§ 101, *et seq.* Jurisdiction is conferred in accordance with 15 U.S.C. § 1121 and 28 U.S.C. 1331 and 1338. This Court has supplemental jurisdiction over the state and common law claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

#### GENERAL ALLEGATIONS

6. Since May 2014, WLA has continuously engaged in the commercial promotion, distribution, and sale of Rollerball Make & Take Workshop kits (hereinafter “WLA’s Goods”) throughout the United States and internationally.

7. WLA is: (i) the owner of existing common-law trademark rights through use of the brand in commerce and (ii) has an allowed application for registration for “Rollerball” as serial number 86686620 that has passed review by the US Trademark Office (sometimes referred to hereafter as WLA’s Mark). A copy of the Trademark Official Gazette “Rollerball” is attached hereto as Exhibit 1.

8. WLA has informed Studio 1C that WLA has trademark rights to the name “Rollerball.”

9. The United States Copyright Office issued to WLA a Certificate of Registration No. VA 1-977-467, dated July 8, 2015, with respect to WLA's Goods. A copy of WLA's Certificate of Registration is attached hereto as Exhibit 2.

10. Upon information and belief, Studio 1C first publicly began selling its make and take kits in or about June 2015.

11. WLA is the owner of the entire right, title, and interest in WLA's Goods.

12. WLA's Goods are promoted, sold or offered for sale under WLA's Mark and Copyright and have been commercially advertised, promoted, sold or offered throughout the United States and internationally by WLA with skill and care. WLA has expended large sums of money to maintain the uniformly high quality and reputation of its Goods in commercial promotion and sale of WLA's Goods. As a result, the sales of WLA's Goods have increased.

13. WLA's Goods are related to the essential oils industry.

14. WLA's Rollerball Make and Take kits are a collection of printed materials that include recipes for mixing oils, labels for marking oil roller bottle applicators, marketing materials for distributors, and instructions on how to use the kits.

15. Roller bottle applicators are glass or plastic bottles with a ball at the top that controls the flow of the oil when applied. Roller bottles have been used in the essential oil industry for many years. WLA coined the term "Rollerball" to describe and distinguish its make and take kits for use with roller bottles. As provided on its Copyright Certificate of Registration, WLA first published "Rollerball" on August 16, 2014. (See Exhibit 2.)

16. WLA applied for a trademark of the term “Rollerball” on July 8, 2015. (See Exhibit 1.)

17. The trademark application was made for “Printed pamphlets, brochures, manuals, books, booklets, leaflets, informational flyers, recipe sheets, recipe card, tabletents, informational sheets and newsletters, adhesive backed labels, and kits comprised solely of one or more of the foregoing materials in the field of health, wellness, and essential oils.” (See Exhibit 1.)

18. WLA’s Mark and Copyright have been and are continuously being applied by WLA to the Goods sold by WLA.

19. WLA’s Goods are sold by WLA’s vendors on the vendors’ websites and in the vendors’ brick and mortar stores. WLA also sells its Goods at its website at [www.rollerballmakeandtake.com](http://www.rollerballmakeandtake.com).

20. By reason of WLA’s extensive advertising, promotion and sale of its Goods, WLA’s Mark and Copyright have acquired and now enjoys a distinctiveness and secondary meaning signifying WLA’s Goods and WLA now owns a valuable goodwill, which is symbolized by WLA’s Mark and Copyright.

21. Studio 1C has used WLA’s Mark “Rollerball” in marketing Studio 1C’s goods (hereinafter “Studio 1C’s Goods”).

22. WLA’s Goods distributed under WLA’s Mark and Copyright are sold and offered for sale to the same class of purchasers Studio 1C offers and sells its goods.

23. In connection with the promotion and marketing of its Goods, WLA has

produced artwork, designs, and Instructional Materials. The Instructional Materials inform the public, WLA's customers and WLA's potential customers, as to how to use WLA's Goods.

24. WLA holds the copyright to the artwork, designs, and Instructional Materials.

25. Studio 1C has copied and distributed WLA's copyrighted artwork, designs, and Instructional Materials without the permission or license of WLA.

26. Studio 1C's website at [www.eo.tools.com](http://www.eo.tools.com) as well as various social media cites use WLA's Mark and Copyrighted materials to describe Studio 1C's Goods.

27. Studio 1C also markets and sells its goods to the same vendors as WLA.

28. In connection with the marketing and sale of their goods, Studio 1C has done so in a manner so as to create a likelihood that a potential buyer would confuse or misunderstand that the source of Studio 1C's Goods is WLA.

29. WLA's Rollerball Remedies Make & Take Workshop kit's "What's Included" sheet prominently uses a shade of purple/mauve as a part of the color scheme, the top ¼ of the sheet is a title bar. Immediately below the title bar is a prominent dividing bar. Below the dividing bar is an explanation of what is included in the kit:

- 20 Postcard Invitations
- 10 Recipe Sheets
- 10 Station Recipe Card Tabletents
- 10 Waterproof Rollerball Label Sets for 10ml bottles

- Extra Sheet of Waterproof Labels with 5 each
- Workshop Tip Sheet

(See WLA's "What's Included" sheet attached hereto as Exhibit 3.)

30. Studio 1C's Rollerball Mentality Make & Take Workshop Kit's "Materials Included" sheet prominently uses the same shade of purple/mauve as a part of the color scheme, the top ¼ of the sheet is a title bar. Immediately below the title bar is a prominent dividing bar. Below the dividing bar is an explanation of what is included in the kit:

- 20 Invitations
- 11 Waterproof Rollerball Label Sets
- 10 Table Tent Recipe Cards
- 10 Roller Ball Recipe Sheets
- Flyer with Instructions & Tips sheet

(See Studio 1C's "Material's Included" sheet attached hereto as Exhibit 4.)

31. A comparison of WLA's instruction sheet and Studio 1C's instruction sheet reveals that Studio 1C copied WLA's instruction sheet almost verbatim, although not in the same order.

<b>WLA's Instruction Sheet</b>	<b>Studio 1 C's Instruction Sheet</b>
For a successful event, be sure to hand out the Postcard Invitations one to two weeks prior to your event.	For a successful event, be sure to personally hand out the invitations 1-2 weeks prior to your event.
Be sure to have all additional supplies on hand for your workshop. (See SUPPLIES NEEDED)	Be sure to have additional materials on hand for your workshop. ( <i>see "Materials Not Included" below</i> )
Be sure to have extra roller bottles available for your guests to purchase.	Be sure to have extra rollerball bottles and labels available for guests to purchase.
Make sure to educate your guests on the basics, benefits and uses of essential oils at the beginning of your workshop . . .	Educate guests, especially newcomers, on the basics, benefits and properties of the essential oils at the beginning of your workshop.
Setup [sic] your 10 Station Recipe Card Table Tents. Be sure to provide enough	Setup [sic] each station prior to guests arriving. You'll want to provide enough

room at each station for your guests.	room each station for your guests to measure, pour and adhere their labels.
Hand out One Recipe Sheet to each guest.	Give each guest a Rollerball Mentality Recipe Sheet . . .
Provide Roller bottles to your guests. (See CLASS OPTIONS)	Provide rollerball bottles and one label sheet to your guests. (see " <i>Workshop Options</i> " below).
Those who are already Wellness Advocates and wish to make additional rollerball remedies, ask them to bring their own oils with to class! If there are oils they don't have to complete certain recipe they want to try, do a little "oil trading" amongst other Wellness Advocates.	Existing Wellness Advocates who wish to make any rollerball blends, should have brought their own oils to the class. If there are oils they don't have to complete a certain recipe they want to try, they can trade with other Wellness Advocates.
CLASS OPTION #1: <b>Charge a flat fee of \$5.00 per person</b> (prospective customers, new and current members.) With that \$5 fee, each attendee will make ONE 5ml sample recipe of their choice.	<b>Workshop Option #1 Charge \$5 per person</b> (prospective customers and current Wellness Advocates). The \$5 gives each guest ONE 10 ml rollerball to make ONE recipe of their choice.
CLASS OPTION #2: <b>each attendee that is NEW to essential oils, as a FREE take away, will make ONE 5ml sample recipe of their choice.</b>	<b>Workshop Option #2 Each guest that is NEW to essential oils, gets to make ONE 10 ml rollerball recipe of their choice FREE . . .</b>
The Wellness Advocate who invited them, supplies the oils for their free rollerball.	The Wellness Advocate who invited them supplies the oils for their free rollerball bottle.
<b>SUPPLIES NEEDED</b> (not included in kit): • All oils needed to make Rollerball Recipes on recipe sheet • Don't forget your Fractionated Coconut Oil! 10 ml (1/3oz) Rollerbottles (these must have smooth sides for labels to be applied).	<b>MATERIALS NOT INCLUDED • Essential Oils</b> listed on recipe sheet • <b>Fractionated Coconut Oil • Guest Supplies</b> - 10 ml rollerball bottles (smooth sided, any color) . . .
Rollerball Remedies	Rollerball Mentality
Thank you for purchasing the Rollerball Remedies Make & Take Workshop Kit!	Thank you for purchasing the Rollerball Mentality Make & Take Workshop Kit!
Workshop Tips & Directions	Make & Take Workshop Tips.

(See WLA instruction sheet and Studio 1C instruction sheet attached hereto as Exhibit 5).

32. As part of its Rollerball Make & Take kit, WLA came up with a unique idea of using a table tent to display the recipe for each station at the workshop. WLA's kits

provide ten table tents with each kit. Studio 1C copied WLA's unique idea and also provides ten table tents the same size and shape and similar color scheme as WLA's table tents. (See Table Tents attached hereto as Exhibit 6.)

33. WLA's Rollerball Make & Take kits have twenty invitation cards. Studio 1C's kits also have twenty invitation cards the exact same shape and size as WLA's invitation cards. Notably, WLA's invitation cards have a roller bottle graphic on the right hand side of the invitation. Studio 1C's invitation cards also have the exact same roller bottle graphic in the exact same place as WLA's invitation cards. (See WLA and Studio 1C invitation cards attached hereto as Exhibit 7.)

34. Both WLA's and Studio 1C's kits have ten recipe sheets. The only difference between the two kits is Studio 1C's kit has "11 Waterproof Rollerball Label Sets" and WLA's kit has "10 Waterproof Rollerball Label Sets" and one "Extra Sheet of Waterproof Labels with 5 each."

35. WLA packages its kits in a generic plastic bag and Studio 1C packages its kits in the same size and type of plastic bag. (See photographs of packaging attached hereto as Exhibit 8).

FIRST CAUSE OF ACTION  
(Infringement of Trademark)

36. WLA repeats and realleges the allegations set forth in paragraphs 1 through 35 above.

37. WLA's claim arises under Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114 and 1125, for infringement of registered and unregistered trademarks.

38. Studio 1C has intentionally and knowingly used WLA's Mark and WLA's Trade Dress by the manufacture, distribution and sale of make and take kits, which conduct is likely to cause confusion, cause mistake, or to deceive as to the source and origin of the goods manufactured, distributed, and sold by Studio 1C.

39. Studio 1C's activities have had and will continue to have a substantial adverse effect on WLA's existing and projected future interstate business of marketing goods identified by its trademark and the goodwill of WLA's business connected with the use of, and symbolized by, WLA's Mark.

40. Studio 1C's activities and conduct constitute infringement of WLA's Mark and Trade Dress in violation of sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114 and 1125.

41. WLA has been and continues to be damaged by Studio 1C's activities and conduct and unless Studio 1C is enjoined, WLA and its goodwill and reputation will continue to suffer irreparable injury which cannot be compensated solely by money damages. Accordingly, WLA may seek injunctive relief pursuant to 15 U.S.C. § 1116.

42. Studio 1C has intentionally and knowingly used WLA's Mark and, accordingly, WLA is entitled to a judgment of three times its damages, as measured by Studio 1C's profits, together with reasonable attorney fees pursuant to 15 U.S.C. § 1117.

WHEREFORE WLA demands judgment as hereafter set forth.

SECOND CAUSE OF ACTION  
(False Designation of Origin/Unfair Competition)

43. WLA repeats and realleges the allegations set forth in paragraphs 1 through 42 above.

44. WLA's claim arises under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), for false designation of origin and false description and representations in interstate commerce.

45. WLA has expended large sums of money to maintain the uniformly high quality of its goods and to maintain the reputation of the goods promoted, sold or offered for sale under WLA's Mark.

46. WLA's Goods are recognized as distinctive and have developed secondary trademark meaning to consumers and potential consumers of WLA's Goods.

47. Studio 1C's use of WLA's Mark and use of WLA design, artwork, identical number of items, identical packaging, and Instructional Materials in connection with the manufacture, distribution, and sale of Studio 1C's goods constitute false designations of origin, false description and representation, and occurred in the course of Studio 1C's commercial and advertising activities. The acts of Studio 1C are likely to cause mistake or to deceive as to the affiliation, connection or association of Studio 1C with WLA as to the origin, sponsorship or approval of its goods in violation of 15 U.S.C. § 1125(a)(1)(A).

48. WLA has been and continues to be damaged by Studio 1C's activities and is entitled to recover Studio 1C's profits received as a result of the infringement

as a measure of its actual damages pursuant to 15 U.S.C. § 1117(a). In addition, unless Studio 1C's conduct is enjoined, WLA will suffer irreparable injury which cannot be adequately compensated by money damages and, accordingly, WLA is entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

WHEREFORE WLA demands judgment as hereafter set forth.

THIRD CAUSE OF ACTION  
(Lanham Act - False Advertising)

49. WLA repeats and realleges the allegations set forth in paragraphs 1 through 48 above.

50. WLA's claim arises under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B) for false representations in interstate commerce.

51. In the process of marketing their goods, Studio 1C has made material misrepresentations about the nature, characteristics, qualities or geographic origin of Studio 1C's Goods or of WLA's Goods.

52. By publishing or causing to be published false or misleading statements of fact regarding WLA and WLA's Goods, Studio 1C has deceived or may deceive WLA's existing and potential customers regarding the nature, characteristics and quality of WLA's Goods.

53. Such false statements have caused WLA to lose business opportunities and have reduced WLA's income and earnings.

54. Studio 1C is liable to WLA for violation of section 43(a) of the Lanham Act and WLA is entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

55. Studio 1C's use of WLA's Marks and Trade Dress in commercial

advertising or promotion misrepresents the nature, characteristics, qualities or geographic origin of the goods, services or commercial activities in violation of 15 U.S.C. § 1125(a)(1)(B).

WHEREFORE WLA demands judgment as hereafter set forth.

FOURTH CAUSE OF ACTION  
(Copyright Infringement)

56. WLA repeats and realleges the allegations set forth in paragraphs 1 through 55 above.

57. WLA owns the copyright in and to the artwork, designs, and Instructional Materials displayed in WLA's kits and has properly registered the copyright with the United States Copyright Office. (See Exhibit 2.)

58. At all relevant times herein, Studio 1C had access to the artwork, designs, and Instructional Materials displayed in WLA's kits.

59. Studio 1C infringed WLA's copyright by its unauthorized copying of WLA's artwork, designs, and Instructional Materials and use of WLA's artwork, designs, and Instructional Materials in Studio 1C's kits.

60. Upon information and belief, Studio 1C in this Judicial District and in other places without the permission or license of WLA has willfully infringed the copyrights of WLA within the meaning of 17 U.S.C. § 504.

61. As a proximate result of the infringement by Studio 1C, WLA has suffered and will continue to suffer injury to its business, name, goodwill as well as monetary damages in an amount not yet determined.

WHEREFORE WLA demands judgment as hereafter set forth.

FIFTH CAUSE OF ACTION  
(Declaratory Judgment)

62. WLA repeats and realleges the allegations set forth in paragraphs 1 through 61 above.

63. Studio 1C has filed a Notice of Opposition ("Opposition") with the United States Patent and Trademark Office, Trademark Trial and Appeal Board ("TTAB"), opposing the registration of WLA's "ROLLERBALL" trademark. A copy of Studio 1C's Notice of Opposition is attached hereto as Exhibit 9. The TTAB has not yet ruled on Studio 1C's Opposition. An actual controversy exists between WLA and Studio 1C regarding the respective rights of WLA and Studio 1C in the "ROLLERBALL" mark. Pursuant to 28 U.S.C. § 2201 and 15 U.S.C. § 1119, WLA is entitled to a declaratory judgment that:

A. WLA is the owner of the "ROLLERBALL" trademark and the trademark is entitled to be registered on the Principle Register.

B. Studio 1C's Opposition should be dismissed with prejudice.

C. WLA's use of the "ROLLERBALL" trademark in connection with the WLA's Goods, and/or in connection with any other kits, has not and does not infringe or otherwise violate any rights of Studio 1C (if any) in connection with Studio 1C's use of the "ROLLERBALL" mark.

WHEREFORE WLA demands judgment as hereafter set forth.

SIXTH CAUSE OF ACTION  
(Violation of the Utah Deceptive Trade Practices Act)

64. WLA repeats and realleges the allegations set forth in paragraphs 1

through 63 above.

65. Studio 1C has engaged in deceptive trade practices in violation of Section 13-11a-1, *et seq.*, of the Utah Code in that Studio 1C has engaged in conduct that creates a likelihood of confusion or of misunderstanding between the goods of Studio 1C and WLA's Goods, as well as their characteristics and qualities.

66. WLA is entitled to recover from Studio 1C the actual amount of damages sustained by WLA or, in the alternative, such other relief as may be available pursuant to section 13-11a-1, *et seq.*

67. Upon information and belief, Studio 1C knows or reasonably should have known of the deceptive character of its alleged conduct.

WHEREFORE WLA demands judgment as hereafter set forth.

SEVENTH CAUSE OF ACTION  
(Common Law infringement)

68. WLA repeats and realleges the allegations set forth in paragraphs 1 through 67 above.

69. The aforesaid acts of Studio 1C constitute an infringement of WLA's common law trademark rights in WLA's Mark and Trade Dress.

70. WLA is entitled to damages for Studio 1C violation of WLA's common law trademark rights.

WHEREFORE WLA demands judgment as hereafter set forth.

EIGHTH CAUSE OF ACTION  
(Common-Law Unfair Competition)

71. WLA repeats and realleges the allegations set forth in paragraphs 1 through 70 above.

72. Studio 1C is engaged in a scheme to have its goods pass in the marketplace as those of WLA.

73. Studio 1C has seized for its own benefit, WLA's Marks, copyrighted material, and goodwill, all of which Studio 1C has built up through time, money and/or effort, and has used the same to unfairly compete against WLA.

74. WLA is entitled to damages for Studio 1C's violation of WLA's common law trademark rights.

75. As to all of the above Causes of Action, Studio 1C's aforesaid acts are greatly and irreparably damaging to WLA and will continue to damage WLA unless restrained by this Court; wherefore WLA is without an adequate remedy at law.

WHEREFORE WLA demands judgment as hereafter set forth.

NINTH CAUSE OF ACTION  
(Intentional Interference with Economic Relations)

76. WLA repeats and realleges the allegations set forth in paragraphs 1 through 75 above.

77. Studio 1C has copied WLA's design, artwork, and Instructional Materials with the intention and effect of diverting sales from WLA to Studio 1C.

78. Studio 1C has intentionally contacted WLA's customers by publishing or causing to be published false or misleading statements of fact regarding WLA and WLA's Goods and Studio 1C has deceived or may deceive WLA's existing customers regarding the nature, characteristics and quality of WLA's Goods.

79. Studio 1C has intentionally interfered with WLA's existing customers by an improper means by infringement of WLA's copyright and trademark, unfair

competition, false advertising and unfair practices.

80. Studio 1C has intentionally and improperly caused WLA to lose sales and has injured WLA.

81. Studio 1C's conduct is willful, malicious, and intentional and manifests a knowing and reckless indifference toward, and a disregard of, the rights of WLA.

82. By reason of such conduct on the part of Studio 1C, WLA has been damaged and irreparably harmed in an amount to be determined at trial, and WLA will continue to suffer such harm.

WHEREFORE, WLA prays that:

1. Studio 1C, their agents, servants, employees, franchisees, licensees, attorneys, and all others in active concert or participation with Studio 1C, be enjoined and restrained, during the pendency of this action and permanently thereafter from:
  - a. Using the name or mark "Rollerball" or any other colorable imitation of WLA's Mark or Trade Dress in connection with Studio 1C's goods, business or services;
  - b. From creating or selling kits or other items that incorporate art work or designs and instructional information that are substantially similar or identical to WLA's art work, designs and instructional information; and
  - c. Doing any other act or thing likely to, or calculated to,

induce the belief that Studio 1C or Studio 1C's business is in any way connected with WLA or WLA's goods.

2. Studio 1C, their agents, servants, employees, distributors, franchisees, licensees, attorneys, and all in active concert or participation with Studio 1C be required in accordance with 15 U.S.C. § 1118 and 17 U.S.C. § 503 to deliver up for destruction all labels, signs, prints, packages, wrappers, receptacles, and advertisements in their possession bearing the name of mark Rollerball or any other reproduction, counterfeit, copy or colorable imitation of WLA's Goods and all plates, molds, matrices, and other means of making the same and to cease and desist from using the name Rollerball or using WLA's copyrighted materials on Studio 1C's website or on social media sights.

3. WLA shall recover Studio 1C's profits and damages sustained by WLA due to Studio 1C's infringement of WLA's trademark and copyright rights, and that the amount of damages be trebled by reason of Studio 1C's trademark infringement, copyright infringement, and unfair competition, in accordance with the provisions of 15 U.S.C. §1117 and 17 U.S.C. § 503-04.

4. That the Court enter a declaratory judgment that determines the following:

A. WLA is the owner of the "ROLLERBALL" trademark and the trademark is entitled to be registered on the Principle Register.

B. Studio 1C's Opposition should be dismissed with prejudice.

C. WLA's use of the "ROLLERBALL" trademark in connection with

the WLA's Goods, and/or in connection with any other kits, has not and does not infringe or otherwise violate any rights of Studio 1C (if any) in connection with Studio 1C's use of the "ROLLERBALL" mark.

5. Studio 1C be required to pay punitive damages in an amount to be determined to punish Studio 1C for its willful and reckless indifference to the rights of others exemplified by its willful appropriation of WLA's Mark and for the unfair competition practiced by Studio 1C against WLA.

6. Studio 1C be required in accordance with 15 U.S.C. § 1116 to file with the Court and serve on WLA a report in writing under oath setting forth in detail the manner and form on which Studio 1C has complied with the terms of the injunction.

7. Studio 1C be enjoined from continuing to interfere with WLA's economic relations and be awarded damages sustained by WLA as a result of Studio 1C's existing or prospective economic relations.

8. Studio 1C be required to pay to WLA the costs of this action, together with reasonable attorney fees and disbursements.

DATED this \_\_\_\_ day of May, 2016.

Hawkins & Sorensen

/s/ Rick L. Sorensen  
Attorneys for Plaintiff

